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BEFORE THE ARIZONA POWER PLANT AND TRANSMISSION

LINE SITING COMMITTEE AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF
ALLEGHENY ENERGY SUPPLY COMPANY, LLC
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY FOR CONSTRUCTION OF A
1,080 MW (NOMINAL) GENERATING FACILITY
IN SECTION 35, TOWNSHIP 3 NORTH, RANGE
11 WEST IN LA PAZ COUNTY, ARIZONA AND
AN ASSOCIATED TRANSMISSION LINE AND
SWITCHYARDS BETWEEN AND IN SECTION 35,
TOWNSHIP 3 NORTH, RANGE 11 WEST AND
SECTIONS 23-26, TOWNSHIP 3 NORTH, RANGE
11 WEST ALSO IN LA PAZ COUNTY, ARIZONA.

DOCKET NO. L-00000AA-01-0116
CASE NO. 116

MOTION TO STRIKE

Arizona Corporation Commission
DOCKETED

NOV 01 2001

DOCKETED BY

Under Ariz. Rev. Stat. §§ 40-360.04(C), 40-360.06, and 40-360.07, A.A.C. R14-3-201(E), and A.A.C. R14-3-208(D), Allegheny Energy Supply Company, LLC moves to strike testimony proffered by the Arizona Unions for Reliable Energy (the "Unions"). Allegheny moves to strike the prefiled comments of the following witnesses as immaterial, beyond the scope of this line siting proceeding and outside the jurisdiction of the Line Siting Committee:

- Phyllis Fox-- Ms. Fox's testimony focuses exclusively on air quality issues and application of ADEQ and EPA standards in urging the Committee to impose air quality emissions limits and other specific performance standards as conditions on Allegheny's certificate of environmental compatibility. Under Ariz. Rev. Stat. § 49-401, et. seq. and A.A.C. R18-2-401, et. seq., all of the issues raised in Ms. Fox's comments will be decided by the air permitting process currently before ADEQ. As a matter of law, the Committee has no authority to impose the performance standards suggested by Ms. Fox and Ariz. Rev. Stat. § 40-360.06(C) requires the Committee to defer to the performance standards established by ADEQ. Her testimony should be excluded as immaterial, beyond the scope of this proceeding and outside the jurisdiction of this Committee.
- Camille Sears-- Allegheny moves to strike the prefiled comments of Ms. Sears for the same reasons. Ms. Sears offers testimony related solely to hazardous air pollutants and application of EPA/ADEQ standards. All of the issues raised by Ms. Sears will be addressed in the air permitting process before ADEQ. By statute, those issues simply are not part of this proceeding.

- 1 • Stephen Radis--Allegheny moves to strike the prefiled comments of Stephen
2 Radis relating to air quality standards, including visibility problems resulting from
3 possible air emissions. Those issues will be decided by ADEQ as part of the air
4 permitting process and are not properly part of siting proceedings. Mr. Radis also
5 offers comments regarding specific ammonia transport and storage criteria that
6 are beyond the scope of this proceeding and exceed the Committee's authority.
- 7 • Scott Terrill--In parallel fashion to the air witnesses, Mr. Terrill raises water
8 quality issues surrounding the La Paz facility's evaporation ponds. Under Ariz.
9 Rev. Stat. § 49-201, et. seq. and A.A.C. R18-9-101, et. seq., those water quality
10 issues will be decided by ADEQ as part of the Aquifer Protection Permit (APP)
11 process. This Committee has no authority to impose any water quality standards
12 beyond what will be required by the APP. Mr. Terrill's comments, therefore,
13 should be excluded from this proceeding.
- 14 • Ken Schmidt--Finally, Allegheny moves to strike the portions of Mr. Schmidt's
15 comments relating to groundwater quality. Those precise issues will be decided
16 as part of the APP process before ADEQ.

17 Before the Unions filed their testimony on October 19, 2001, Allegheny
18 specifically called the jurisdictional limits in Ariz. Rev. Stat. § 40-360.06 to the Unions'
19 attention in an effort to avoid unnecessary testimony and filings. The Unions' attorneys
20 expressed their intent to raise those environmental issues anyway and disregarded Arizona's
21 siting statutes by filing 1,000 plus pages of air and water quality testimony, data and reports. As
22 a result, Allegheny has no choice but to file this motion to strike.

23 *I. BRIEF STATEMENT OF MOTION.*

24 Mark Twain once said "I didn't have time to write a short letter, so I wrote a long
one instead." The famous author must have read the Unions' case. Rather than focus on the
proper scope of this case, the Unions have submitted over 1,000 pages of comments, documents
and data seeking to impose specific air and water quality standards as part of the siting process.
The Unions treat this docket as an environmental permitting process. By statute, it is not.

As a matter of law and fact, the Unions' testimony should be excluded under Ariz.
Rev. Stat. § 40-360.06(C). That statute involves a two-part analysis that warrants excluding the

1 Union testimony presented by Fox, Sears, Radis, Terrill and Schmidt. First, the initial clause of
2 § 40-360.06(C) mandates that the “committee shall require in all certificates for facilities that the
3 applicant comply with all...air and water quality pollution control standards and regulations.”
4 Because Allegheny’s CEC will require it to comply with applicable air and water quality
5 standards, the Unions’ testimony addressing air (Fox, Sears and Radis) and water quality
6 standards (Terrill and Schmidt) is immaterial and exceeds the scope of this siting proceeding.

7 Under Ariz. Rev. Stat. §§ 49-201 and § 49-401 et. seq., ADEQ has exclusive
8 authority to determine what air and water quality permit standards apply to the La Paz facility
9 and those standards will be determined by the separate air and APP permit processes.¹ The Chair
10 should exclude the Unions’ comments presented by Fox, Sears, Radis, Terrill and Schmidt as
11 immaterial to this proceeding.

12 A second equally compelling reason to grant this motion is that Arizona’s line
13 siting statutes contain no provisions granting the Committee or the Commission any authority to
14 dictate or determine pollution control standards as part of the siting process. Instead, the exact
15 opposite is true under the second clause of Ariz. Rev. Stat. § 40-360.06(C), which dictates that
16 “the Committee shall not require compliance with performance standards other than those
17 established by the agency having primary jurisdiction over a particular pollution source.” The
18 Committee’s jurisdiction is limited to requiring Allegheny to comply with the permit conditions
19 imposed by ADEQ or other agencies relating to water, air or other pollutant control standards.

20 Further, the Committee’s jurisdiction and authority is limited to application of the
21

22 ¹ Allegheny filed its Class I air permit application with ADEQ on October 2, 2001.
23 Allegheny expects to file its Acquiifer Protection Permit application with ADEQ in November
24 2001. Of course, the Unions will have the opportunity to offer their comments as part of those
permit proceedings.

1 nine specific factors listed in Ariz. Rev. Stat. § 40-360.06(A). The Union comments offered by
2 Fox, Sears, Radis, Terrill and Schmidt (in part) far exceed those nine factors. This motion is
3 governed by Arizona's statutory framework for siting proceedings which expressly does not
4 include determinations of pollution control standards for proposed plants:

- 5 (1) Under Ariz. Rev. Stat. § 40-360, et. seq., the Legislature created the Line Siting
6 Committee and empowered it to oversee power plant sitings. The Committee's
7 powers are limited to consideration of nine specific factors in approving or
8 denying a CEC application. The Legislature did not grant the Committee or the
9 Commission any authority to set or establish environmental standards applicable
10 to power plants. See Ariz. Rev. Stat. § 40-360.06(A).
- 11 (2) Instead, the Legislature recognized that those issues will be determined by other
12 agencies with primary jurisdiction and required the Committee to condition CECs
13 on applicant compliance with pollution control standards determined by agencies
14 with primary jurisdiction. The Fox, Sears, Radis, Terrill and Schmidt testimony
15 must be excluded under Ariz. Rev. Stat. § 40-360.06(C), which precludes the
16 Committee from imposing any standards other than those determined by agencies
17 with primary jurisdiction. *The Committee's sole power regarding pollution*
18 *controls is to require applicants to comply with the standards established by the*
19 *governing agencies.* See Ariz. Rev. Stat. § 40-360.06(C).²
- 20 (3) The Fox, Sears, Radis, Terrill and Schmidt testimony is further precluded by Ariz.
21 Rev. Stat. § 40-360.06(C) which also dictates that the Committee "shall not
22 require compliance with performance standards other than those established by
23 the agency having primary jurisdiction over a particular pollution source."
- 24 (4) Finally, Ariz. Rev. Stat. § 40-360.07 provides that the Arizona Corporation
Commission "shall comply with the provisions of § 40-360.06" in issuing its final
decision.

2 In the recent Duke II line siting proceedings, for example, the Committee
approved a proposed CEC requiring compliance with: "all applicable air quality control
standards, approvals, permit conditions and requirements of the Maricopa County Air Quality
Control District and/or other State or Federal agencies having jurisdiction, and the Applicant
shall install and operate selective catalytic reduction and catalytic oxidation technology at the
level determined by the Maricopa County Air Quality Control District and approved by EPA
Region IX...." See Docket No. L-00000P-01-0117. That condition references air standards as
determined by the governing agency and illustrates that the Committee does not have the
authority to establish pollution control standards on its own. Similar conditions have been
included in virtually all CECs issued by the Committee and the Commission.

1 **II. THE UNIONS' TESTIMONY AND COMMENTS FAR EXCEED THE SCOPE OF**
2 **THE COMMITTEE'S JURISDICTION UNDER ARIZ. REV. STAT. § 40-360.06.**

3 By filing over 1,000 pages of environmental comments, reports and data, the
4 Unions invite the Committee to explore issues expressly reserved to other agencies under
5 Arizona's siting and other statutes. Contrary to statute, the Unions want the Committee to
6 plunge into the murky waters of environmental permitting and establish air and water quality
7 pollution standards as part of the CEC process. The Committee should decline the invitation.

8 The Committee is not the ADEQ or EPA. Nor is the Commission. Neither entity
9 possesses the expertise of those agencies because they are not charged with their tasks. The
10 Committee has no staff dedicated to exploring those types of environmental issues. The ADEQ
11 and other representatives on the Committee certainly can appreciate the expertise, analysis,
12 resources and time required to determine pollution control standards and how they apply to
13 proposed power plants. This Committee and the Commission were not created and are not
14 suited to determine such environmental permitting issues or establish pollution control standards
15 as part of siting dockets.

16 By statute, the Committee is required to issue its decision within "one hundred
17 and eighty days after the application has been filed." See Ariz. Rev. Stat. § 40-360.04(D). Even
18 as conducted by agencies familiar with the environmental standards, rules and precedents in
19 these air and water quality areas, air permitting and APP proceedings routinely take much longer
20 than the 180 day statutorily imposed deadline.

21 Discussing and determining detailed environmental standards as part of CEC
22 applications implicates a host of other practical and legal problems. Injecting such issues into
23 siting dockets would turn siting hearings into a full-fledged air/water permitting process. In the
24 process, the Committee would be forced to consider thousands of pages of air/water permitting

1 data to the detriment of other matters placed within the Committee's jurisdiction. Interjecting
2 such issues into this proceeding also raises significant problems with treating Allegheny
3 differently than other previous and current CEC applicants.

4 Committee hearings and decisions addressing the environmental issues raised by
5 the Unions also would duplicate and conflict with powers given to other state and federal
6 agencies responsible for various pollution control standards. See, e.g., Ariz. Rev. Stat. § 49-401
7 ("The legislature further intends to place primary responsibility for air pollution control and
8 abatement in the department of environmental quality..."); Ariz. Rev. Stat. § 49-201 (ADEQ "is
9 designated as the agency for this state for all purposes of the clean water act..."), A.A.C. R18-2-
10 402 ("No person shall commence construction of a new major source...without first obtaining a
11 permit or a permit revision from the Director" of ADEQ).

12 For example, let's assume that the Committee allows the Unions to proffer Ms.
13 Fox's testimony that "BACT for NOx for this project is 1.5 ppm averaged over 1 hour" and
14 adopts that standard as part of the CEC. See Fox Testimony, p. 5. Any such condition imposed
15 by the Committee or the Commission may conflict with the outcome of the ADEQ permitting
16 process if, for example, ADEQ subsequently determines that 2.5 ppm is proper BACT for NOx
17 at the La Paz plant. Under Ariz. Rev. Stat. § 40-360.06(C), that ADEQ determination would
18 supersede the CEC. That's why the Unions' testimony on such issues is immaterial and should
19 be excluded.

20 Finally, the Committee's and Commission's 30 years of application of the siting
21 statutes and the Rules of Practice and Procedure strongly support a ruling on the immateriality of
22 the Union's case. The Committee has never conducted hearings nor entertained detailed
23 evidence such as that proffered here as to air and water quality standards--undoubtedly because
24

1 of the jurisdictional restriction set forth in Ariz. Rev. Stat. § 40-360.06(C). It also is significant
2 that while R14-3-219 requires descriptions of various factors entrusted to the Committee's
3 jurisdiction under Ariz. Rev. Stat. § 40-360.A and B, it is completely silent as to air or water
4 quality filing requirements.

5 **III. THE PREFILED COMMENTS OFFERED BY THE UNIONS SHOULD BE**
6 **EXCLUDED FROM THIS PROCEEDING AS IMMATERIAL AND BEYOND THE SCOPE**
7 **OF THE SITING PROCESS.**

8 **A. The Comments of Phyllis Fox Should Be Excluded.**

9 Allegheny moves to strike the prefiled comments of Ms. Fox because they are not
10 material to the issues before the Committee and go beyond the scope of the line siting process.
11 Ms. Fox's testimony focuses exclusively on air quality issues and application of ADEQ and EPA
12 standards and regulations. All of the issues raised in Ms. Fox's comments will be decided by the
13 air permitting process currently before ADEQ. Allegheny, of course, will be subject to the
14 results of the ADEQ permitting process on those issues and has proposed a certificate condition
15 to that effect.

16 Ms. Fox's comments consist of arguments revolving around interpretation of the
17 federal Clean Air Act and ADEQ regulations. Her entire testimony consists of argument relating
18 to proper BACT determinations for the La Paz facility for NOx, ammonia slip, CO emissions,
19 volatile organic compounds (VOCs) and hazardous air pollutants (HAPs), and application of
20 other air quality and pollution control standards clearly within ADEQ's purview. As discussed
21 above, her testimony goes well beyond the scope of the Committee's authority and jurisdiction
22 under Ariz. Rev. Stat. § 40-360.06.³

23 ³ Ms. Fox's comments and the comments of the other Union witnesses also are
24 substantively incorrect and inaccurate on numerous fronts. Allegheny will not address those
flaws here because they will be addressed as part of the ADEQ air permitting process.

1 In another power plant siting proceeding, the Unions recognized by their actions
2 that Ms. Fox's comments and testimony on these air quality issues should not be raised before
3 the Committee and should be considered elsewhere. Ms. Fox's comments here are a mirror
4 image of her comments filed as part of the environmental impact statement process in the Big
5 Sandy power plant matter. In that case, the Unions did not intervene in the line siting process but
6 filed comments during the EIS process. See Comments of Arizona Unions for Reliable Energy
7 on the Big Sandy Energy Project Draft Environmental Impact Statement dated August 6, 2001.⁴
8 Allegheny doesn't know why the Unions elected to follow a different course of action in this
9 case. But the fact that Ms. Fox has modeled her testimony on her EIS comments in Big Sandy
10 illustrates that her testimony goes beyond the scope of this proceeding and the Unions and Ms.
11 Fox know it.

12 ***B. The Comments of Camille Sears Should Be Excluded.***

13 Allegheny moves to strike the prefiled comments of Ms. Sears for the same
14 reasons. Ms. Sears offers testimony related to hazardous air pollutants and application of
15 EPA/ADEQ standards. Again, all of the issues raised by Ms. Sears will be decided by ADEQ.
16 By statute, those issues simply are not part of this proceeding and this Committee and/or the
17 Commission has no authority to address air quality performance standards.

18 Ms. Sears also raises issues relating to "construction air quality impacts." See
19 Sears Testimony, pp. 5-8. She cites alleged ambient air quality standards and prevention of
20 significant deterioration increments applicable to the La Paz plant regarding construction
21

22 ⁴ The Unions carbon copied the three Corporation Commissioners with their EIS
23 comments in Big Sandy on August 6, 2001. The Unions' comments were addressed to the
24 Environmental Manager for the Western Area Power Administration as comments "on the Draft
Environmental Impact Statement ("DEIS") for the Big Sandy Energy Project..."

1 emissions. Ms. Sears proposes that the Committee establish and set construction emissions
2 standards for the La Paz plant based on "guidance developed by the Santa Barbara County Air
3 Pollution Control District." Id. at p. 6. If construction emissions are an issue, ADEQ will
4 address them as part of the permitting process. The mandate of this Committee is to require
5 compliance with the standards set by ADEQ. Nothing more, nothing less.

6 **C. The Comments of Stephen Radis Should Be Excluded.**

7 Allegheny also moves to strike the prefiled comments of Stephen Radis relating to
8 air quality and public health impacts. Mr. Radis mistakes the line siting process for an air permit
9 determination. He raises issues related to visibility problems resulting from possible air
10 emissions, and attempts to impose certain EPA/ADEQ emissions standards and criteria to the La
11 Paz facility. Those issues already are before ADEQ as part of the air permitting process and are
12 not properly before the Committee. See A.A.C. R18-2-407(I)(2) (requiring an "analysis of the
13 impairment to visibility"); A.A.C. R18-2-410 (ADEQ regulations governing "Visibility
14 Protection").

15 Mr. Radis also offers comments relating to ammonia transportation risks. Those
16 comments should be excluded for two reasons. First, ammonia transportation and storage
17 standards are dictated by state and federal standards. See, 40 C.F.R. Part 68, et. seq.; A.A.C.
18 R17-4-436 (ADOT regulations regarding "Hazardous Materials Transportation"). Second, Mr.
19 Radis' comments seem to be nothing more than a rewrite of comments submitted in a California
20 proceeding. Mr. Radis didn't even bother to change the California wording of his report:

21 Alternatively, the CEC should encourage the Applicant to consider alternatives to
22 aqueous ammonia, either through alternative emission control technologies, such as
23 SCONox, or through alternative ammonia technologies....The California Energy
24 Commission (CEC) staff use significance thresholds for hazardous materials...

See Radis Testimony, pp. 21-22. In his comments, Mr. Radis urges the Committee to establish

1 ammonia risk standards and alternative emissions technologies for the La Paz plant. The
2 Committee and the Commission have no authority to determine any specific ammonia standards
3 and Mr. Radis' ammonia testimony should be excluded. Further, similar to conditions included
4 in prior CECs, Allegheny has proposed a condition that requires compliance with "all applicable
5 regulations and permits governing transportation, storage and handling of chemicals." That
6 condition satisfies the Committee's duties and obligations on this issue.

7 **D. The Comments of Scott Terrill Should Be Excluded.**

8 Next, Mr. Terrill raises water quality issues surrounding the La Paz facility's
9 evaporation ponds. Those are precisely the type of water quality issues that will be covered by
10 the Aquifer Protection Permit (APP) process before ADEQ. For that reason alone, Mr. Terrill's
11 testimony should be precluded from this proceeding. But the testimony of Mr. Terrill also is
12 unsubstantiated. The focus of Mr. Terrill's testimony relates to possible "selenium"
13 contamination reported in the San Joaquin Valley in California and how that may happen for the
14 La Paz plant. See Terrill Testimony, pp. 1-2. But he doesn't present any specific comments
15 relating to the La Paz plant and does nothing more than generically apply "United States
16 Environmental Protection Agency (EPA) freshwater chronic criterion." Id. at p. 2. Mr. Terrill's
17 opinions should be excluded as immaterial, speculative and conclusory. His comments go
18 beyond the scope of this proceeding. Any water quality issues stemming from the evaporation
19 ponds will be addressed by ADEQ as part of the APP process.

20 **E. The Water Quality Comments of Ken Schmidt Should Be Excluded.**

21 Finally, Allegheny moves to strike the portions of Mr. Schmidt's comments
22 relating to groundwater quality. See Schmidt Testimony, pp. 6-7. Those issues will be decided
23 by ADEQ as part of the APP process. Mr. Schmidt even acknowledges that those issues are part
24

1 and parcel of the APP process:

2 A handout at the September 4, 2001 hearing in Parker indicated that the application for
3 the Acquirer Protection Permit (APP) would be filed in October 2001. It would be
4 extremely useful to have this information in order to provide comments on the
5 evaporation ponds and potential impacts of wastewater.

6 Id. at p.7. His testimony about potential water quality concerns should be excluded.

7 **IV. WHO ARE THE UNIONS AND WHY ARE THEY INVOLVED IN THIS CASE?**

8 In addressing this motion, it's also important to understand who the Unions are
9 and why they have intervened in this docket. AZURE was formed in the spring of 2001. It is a
10 coalition of four Arizona labor unions.⁵ AZURE is modeled after a California organization
11 entitled CURE (California Unions for Reliable Energy). Allegheny expects the Unions to argue
12 that they are not affiliated with CURE. But that argument is transparent, at best. They have
13 virtually the same name (AZURE v. CURE), they are comprised of the same building trade
14 crafts (electricians, pipefitters and boilermakers), they are represented by the same California law
15 firm (Adams, Broadwell & Joseph), they have retained the same California experts (Fox, Sears,
16 Marcus, Terrill and Radis) and they employ the same *modus operandi* of intervening in power
17 plant siting dockets.

18 The reason for the formation of CURE and union intervention in siting dockets is
19 stated clearly by the business manager for California IBEW Local 569 (a CURE member):

20 If you've attended any of Local 569's general membership meetings in the last 2 years,
21 you've heard me talk about the progress CURE is making. I thought I would give you a
22 general description of what CURE really is. California Unions for Reliable Energy was
23 formed in May 1997 by three building trade crafts and IBEW utility unions...CURE was
24 formed at the birth of a new industry in California. The utilities were leaving the electric
generation business and a wave new electric generating plants by independent companies
was expected. CURE's founders feared that these new plants would follow the way of
the smaller cogens—many would be built non-union and all would be operated non-
union. The new plants also would have such substantial environmental impacts that

⁵ Iron Workers Union Local 75, Boilermakers Union Local 627, International
Brotherhood of Electrical Workers Local 640, and United Association Local 469.

1 development by union friendly industries would be impeded. Emission offsets would be
2 consumed and water supplies would be depleted. CURE dedicated itself to a statewide
3 mission to prevent that from happening. All of the power plants must obtain a permit
4 from the California Energy Commission. CURE is an *intervenor* in each of the
5 application proceedings at the Energy Commission. CURE retains a variety of
6 consultants to provide expert analysis on the impacts of the projects, and participates
7 actively in the Energy Commission proceedings...To date, CURE has been very
8 successful. CURE has labor agreements with Calpine for its first six power plants in
9 Northern California...These agreements govern construction, contracted out maintenance
10 and the permanent workforce...(underlined emphasis added)

11 On Friday, April 30 I got the word that the High Desert Power Plant Project has agreed to
12 ALL of our agreements. If you read in past Transmitters, I told you that Constellation
13 Energy (the developer) vowed that they would NEVER sign our agreements and would
14 fight us all the way. We accepted their challenge and after being held back for almost 2
15 years, they've decided that it is much better to work with CURE....By getting involved
16 with the environmental aspects of these construction projects, we have been able to help
17 protect the public, the environment and our memberships. All power generating
18 development will be by private developers, now, in California. Many, if not most of
19 these plants, would probably go non-union if not for this coalition. (emphasis in original)

20 See Business Manager's Report, May 1999 Newsletter from International Brotherhood of
21 Electrical Workers Local 569 dated May 1999 (attached as Exhibit A). That statement speaks
22 for itself and the Chair should prevent the Unions from wreaking havoc on Arizona's line siting
23 process by excluding the Unions' testimony under Ariz. Rev. Stat. § 40-360.06. Although
24 Allegheny has invited bids from all qualified contractors--union and non-union--it has declined
to execute a project labor agreement with the Unions. This proceeding should not be used as a
club to bludgeon Allegheny into a labor agreement.

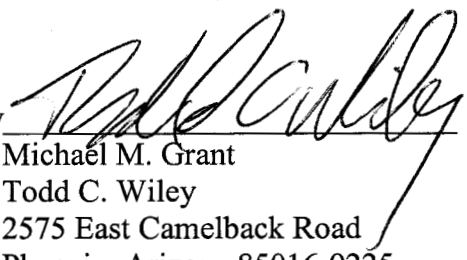
18 V. CONCLUSION

19 Under Ariz. Rev. Stat. §§ 40-360.04(C), 40-360.06, and 40-360.07, and A.A.C.
20 R14-3-208(D), the Chair should strike the prefiled comments of Phyllis Fox, Camille Sears,
21 Scott Terrill, and Stephen Radis in their entirety, and exclude pages 6-7 of Ken Schmidt's
22 comments, as immaterial, beyond the scope of this line siting proceeding and outside the
23 jurisdiction of the Line Siting Committee.

1 Allegheny respectfully requests that the Chair issue an expedited decision on this
2 motion by requiring the Unions to file a response within five business days and issuing a
3 decision prior to the November 13-14, 2001 hearings.

4 DATED this 1 day of November, 2001.

5 GALLAGHER & KENNEDY, P.A.

6
7 By 
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11 **Original** and 25 copies filed this
12 1st day of November, 2001, with:

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15 **Copies** of the foregoing hand-delivered
16 this 1st day of November, 2001, to:

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BUSINESS MANAGER'S REPORT

If you've attended any of Local 569's general membership meetings in the last 2 years you've heard me talk about the progress that CURE is making. I thought I would give you a general description of what CURE really is.

California **U**nions for **R**eliable **E**nergy was formed in May 1997 by three building trades crafts and IBEW utility unions. The original members of CURE were three IBEW construction locals (340, 477 and **569**), the **UA** (**Southern California District Council 16 and Local 447 on behalf of all northern California UA locals**), and the **Boilermakers (Locals 92 and 549)**, and IBEW Utility Locals 47 and 1245.

All of the UA and Boilermakers throughout the state

were participants, but initially, IBEW construction locals participated only in the areas where the first three plants were proposed.

IBEW Local 11 began participating in CURE shortly after it was formed. IBEW Locals 302 and 428 became participants as we learned of plants in their jurisdictions.

CURE quickly realized the importance of effective statewide leadership, and selected Bob Balgenorth as its Chair.

CURE was formed at the birth of a new industry in California. The utilities were leaving the electric generation business and a wave of new electric generating plants by independent companies was expected. CURE's founders feared that these new plants would follow the way of the smaller cogens - many would be built non-union and all would be operated non-union. The new plants would also have such substantial environmental impacts that development by union friendly industries would be impeded. Emissions offsets would be consumed and water supplies would be depleted. CURE dedicated itself to a statewide mission to prevent this outcome.

All of the power plants must obtain a permit from the California Energy Commission. CURE is an *intervenor* in each of the application proceedings at the Energy Commission. CURE retains a variety of consultants to provide expert analysis of the impacts of the projects, and participates actively in the Energy Commission proceedings. Frequently, other agencies are involved in reviewing the applications, and CURE also participates in those proceedings as warranted.

To date, CURE has been very successful. CURE has labor agreements with Calpine for its first six power plants in Northern California, with Enron for its plant in Pittsburg, California and with U.S. Generating for its plant in Kern County. The agreements govern construction, contracted out maintenance and the permanent workforce. CURE also made a landmark environmental agreement with Calpine in which Calpine agreed to the lowest NOx emission rate of

any plant in the United States and agreed to eliminate all water resource impacts by using dry air cooled condensers rather than wet cooling. Using dry air cooling over wet cooling is not only good for the environment but it is also good for our membership. Dry air cooling adds up to 20% more man-hours to a power plant construction project.

We estimate that these labor agreements affect \$3.2 billion in Capital investment, will provide more than 9 million construction work hours, and more than 1 million maintenance work hours.

On Friday, April 30 I got the word that the High Desert Power Plant Project has agreed to ALL of our agreements. If you read in past Transmitters, I told you that Constellation Energy (the developer) vowed that they would NEVER sign our agreements and would fight us all the way. We accepted their challenge and after being held back for almost 2 years, they've decided that it is much better to work with CURE. Negotiations are under way, or soon will be under way, for projects that would more than double these results. Our proposed new plant at Otay Mesa has committed to sign our agreements and should be before the Energy Commission within the next month or two. Several other developers have indicated an interest in negotiations before they file their applications.

By getting involved with the environmental aspects of these construction projects we have been able to help protect the public, the environment, and our memberships. All power generating development will be by private developers, now, in California. Many, if not most of these plants, would probably go non-union if not for this coalition.

If you are interested in the ongoing development of these projects information is available at the California Energy Commission web site at [<http://www.energy.ca.gov>].

Notice to our INSIDE members: If you are eligible for our certification badge, get one and display it when you are working. Show our customers that WE are different from our competition.

If you are interested in open discussion of IBEW issues with members and other electrical workers from around the world: On the WEB, go to [<http://www.onelist.com/subscribe.cgi/ibew>] and sign up for the IBEW "list-server". All of your representatives and organizers can now be contacted by email. Go to the Local 569 web site at [<http://www.ibew569.org>] for an email link to any of us.

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(We apologize for omitting this last time)

FROM THE PRESIDENT:

The holidays are past and we are at the start of what looks to be a promising year for all our members and their families. I'd like to take this opportunity to speak to you about one of the Local's committees, the Brotherhood Committee. When you hear this name you might think of the people who help at the picnic, or that this committee used to sponsor dances or Reno nights, or maybe the raffles we had for the shotgun or a year's dues paid and you'd be right. The dollar or dollars that are collected at the beginning of General Membership Meetings for the 50/50 are split between the winner and the Brotherhood Committee. So what is the money used for? The Brotherhood Committee's main function is to help out members who are having financial difficulties and have fallen behind in their dues. If a member is three months behind in dues, they are suspended by the International. The Brotherhood Committee lends money to members to help them bring their dues up to date. There is only so much money to go around. The Committee depends on 50/50 donations, which are based on attendance at the union meetings. More people come to meetings, more money is donated to the 50/50, more money goes to the Committee to help members. (Ha! I've got in a small plug for meeting attendance.) The Committee also depends